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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,122	11/13/2001	Frank Venegas JR.	IDS-13802/14	6422

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EXAMINER

LE, TAN

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/054,122

Applicant(s)

VENEGAS, FRANK

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8,11-14 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 and 16 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,11-14 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This is the third office action for application serial number 10/054,122, Modular, collapsible Base for furniture, Particularly Conference Tables, and The Like, filed on 11/13/01. This application contains 17 claims numbered 1-2, 4-17 and 18. Claim 3 has been canceled. Claim 18 has been added.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-2, 4-7, 11-12, 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,854,831 to Gutner in view of U.S. Patent No. 4,685,645 to Catteneol or in view of U.S. Des. Patent No. 426,898 to Venegas, Jr. (IDS).

Regarding claims 1 and 11 and 14, Gutner discloses a collapsible table, comprising: a glass table top (12), a table base top portion (14, 15, 16, 17) disposed in a generally horizontal plane, the top portion comprising a plurality of releasably interconnected horizontal members/rails (14, 15, 16, 17) for supporting the table top thereon; a support portion (18, 19, 20, 21) for supporting the top portion, the support portion comprising a plurality of elongated members releasably interconnected to one another, the elongated members including leg members (18, 19, 20, 21) having lower ends for engaging the floor; and removable structure fittings (Figs. 2-8 and 12)

releasably interconnecting the top portion and the support portion so as to form a generally a rigid base.

Gutner does not disclose the sheathing being surrounding the entire each of the tubular members including horizontal members and the elongated members to provide an aesthetic pleasing appearance.

Cattaneo or Venegas, Jr. teaches that it was well known to the art to have a replaceable sheathing surrounding the table legs or tubular members to provide an agreeable aesthetic or colorful appearance (12 to Cattaneo), (Fig. 1 to Venegas, Jr.).

It would have been obvious to one skilled in the art at the time the invention was made to modify tubular members of Guner to include a surrounding sheathing as taught by Cattaneo or Venegas, Jr. in order to make the tubular members of the table to be aesthetic and having colorful appearance. Nevertheless, the use of sheathing surrounding the tubular members or table legs for an aesthetic appearance is commonly well known and conventional and to use such in the same intended purpose would have been obvious and well within the level of ordinary skill of the art thereby providing structure as claimed.

Regarding claims 2 and 4, Gutner as modified also discloses that the horizontal and elongated members are straight and hollow metal tubes.

Regarding claims 5-7, Gutner as modified also discloses at least one of the fittings comprising a slip-in fitting having a base (22, 213, 313, 413 or 549) with a radiused surface matching the outer diameter of one of the tubes, the fitting further having an engagement member (224, 234, 334, 434, 540, 550 ) extending form the

base, the engagement member configured to engage the inner diameter of one of the tubes; and the base of the slip-in structural fitting having an outer diameter substantially the same as the outer diameter of the tube engaged by the engagement member.

Regarding claims 12 and 18, Gutner as modified also discloses the plurality of horizontal rails comprising a first pair of parallel spaced apart horizontal rails (16, 17) and a second pair of parallel spaced apart horizontal rails (14, 15) wherein each of the first pair connected to each of the second pair at both ends; and the table top is glass.

→ Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutner in view of Catteneol (or Venegas Jr) and further view of U.S Patent No. 3,886,710 to Krause et al. (See IDS), or further in view of U.S. Patent No. 5,941,183 to Ming-Shun.

Unlike Gutner as modified, Ming-Shun or Krause teaches the engagement member (52) having a pair of engagement fingers (52 to Ming\_Shun), (52, 54 to Krause) shaped to fit into the inner diameter of the tube engaged by the engagement member.

It would have been obvious and well within the level of ordinary skill in the art to modify the slip-in fitting of Gutner as modified to include a slip-in fitting that has the engagement member extending from the base wherein the engagement member comprises a pair of engagement fingers shaped to fit into the inner diameter of the tube, as taught by Ming-Shun or Krause since such fittings are conventional alternative fitting used in the same intended purpose, thereby providing structure fitting as claimed. The

Art Unit: 3632

use of engagement fingers is well known and to use such in the same intended purpose would have also deemed to be an obvious matter of design choice.

→ . Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gutner in view of Catteneol (or Venegas, Jr.) and further in view of U.S Patent No. 3,910,206 to Jay.

Unlike Gutner as modified, Jay discloses a first leg brace (24d, 24b, 24a, 24c) interconnects between two of the legs between the lower and upper ends thereof.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the brace interconnected between the two legs as taught by Jay in order to make the legs stronger to support the table.

#### ***Allowable Subject Matter***

3. Claims 15 and 16 are allowed, and the reasons for indication of allowable subject matter have been provided in the previous office action.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1 and 11 have been considered but are moot in view of the new ground of rejection.

Applicant's argument with respect to the reference of Cattaneo is not persuasive. Examiner respectfully submits that Cattaneo does not have to teach a collapsible table in order to make the case obvious. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a

Art Unit: 3632

background for determining obviousness under 35 U.S.C. 103(a) in this case has been met. Cattaneo does clearly teach and suggest a decorative table legs with sheathing surrounding the table legs.

With respect to the reference of Venegas, Jr. (Design patent), Examiner respectfully submits that "conclusion of obviousness may be made from common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference" See in re Bozek, 163 USPQ 545 (CCPA 1969). Although the reference of Venegas, Jr. does not expressly teach for the table but it does clearly teach the ornamental design for a combined tubular sleeve with sheathing. Nevertheless, conclusion of obviousness in the office action is simply driving from the following reasons: First, a skilled artisan must be presumed to know something about the art apart from what the references disclose. Second, Venegas, Jr. suggests that there are benefits to use sheathing around the tubular sleeves for colorful/esthetic appearance in unlimited ways that one of the ordinary can think of (because Venegas does not prevent or limit from using it). Third, while Venegas, Jr. expresses an advantage of using the sheathing for colorful /esthetic appearance, at the same time it provides the motivation for one of ordinary skill in the art to focus on using this teaching on the tubular members such as table legs of the instant invention. Therefore, to use the ornamental sheathing of Venegas in combination with the table having tubular members as taught by the prior art would have been obvious for the reasons as pointed out in the rejection.

With respect to the reference of Kawai et al, examiner agrees with Applicant that the reference of Kawai simply teaches a steel pipe that may be sheathed with conductive plastic resin, not for any esthetic reason, but more for a functional consideration, therefore the rejection using the reference of Kawai et al. has been withdrawn.

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



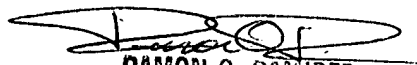
Art Unit: 3632

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Tan Le, whose telephone number is ( 703) 305-8244. The Examiner can normally be reached on Tuesday through Friday and on alternate Monday from 8:00 A.M. to 5:30 P.M. The fax numbers for the Group are ( 703) 305-3597 or (703) 305-7687 (for formal communication), and ( 703) 308-3519 (for informal communication).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Group receptionist at 703.308.2168.

*Me*

Tan Le  
Patent Examiner  
AU 3632  
March 20, 2003.

  
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PRIMARY EXAMINER  
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